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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAR 21 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
Streamlining the Commission's Antenna )  
Structure Clearance Procedure )  
and )  
Revision of Part 17 of the Commission's )  
Rules Concerning Construction, Marking, )  
and Lighting of Antenna Structures )

WT Docket No. 95-5

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**COMMENTS OF EMI COMMUNICATIONS CORPORATION**

EMI Communications Corporation ("EMI"), by its attorneys, hereby submits its comments in the above-referenced proceeding. EMI is a licensee of domestic public fixed radio service facilities. EMI owns thirty-five (35) antenna structures that are subject to the existing notification requirements of the Federal Aviation Administration ("FAA") and the Federal Communications Commission ("FCC"). Moreover, like most antenna structure owners, EMI leases space on its towers to numerous other Commission licensees. EMI is well-positioned, therefore, to urge the Commission to adopt the proposals advanced in its Notice of Proposed Rulemaking ("Notice")<sup>1/</sup> subject to the modifications suggested and explained below.

**I. Introduction**

The Commission's proposed streamlining of the current antenna structure clearance process is securely in the public interest. Specifically, the Commission's proposal to require

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<sup>1/</sup> In the Matter of Streamlining the Commission's Antenna Structure Clearance Procedures and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking, and Lighting of Antenna Structures, Notice of Proposed Rulemaking, WT Docket No. 95-5, rel. January 20, 1995.

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only structure owners to register towers by means of a uniform and centralized registration process will reduce significantly the administrative burdens on licensees and Commission staff alike. In addition, the proposals to consolidate previously separate FCC antenna structure databases and to standardize the notification process across disparate services will improve the accuracy of FCC-archived structure data and will correspondingly promote public safety.

EMI recommends, however, that the Commission modify its proposal in three ways to ensure that the registration data submitted under the proposed program are accurate and reliable. First, the Commission should implement a staggered registration deadline schedule that would afford owners of multiple antenna structures sufficient time to accurately survey, measure and register their towers. Second, the Commission should incorporate into its rules the tower survey and measurement procedures included in the draft instructions to the proposed FCC Form 854 (the "Antenna Structure Registration Form").<sup>2/</sup> Third, the Commission should clarify that tower owners will not be penalized for making bona fide corrections to the topographical and dimensional data on file with the Commission for existing tower structures.

## **II. The Commission Should Permit Multiple-Structure Owners to Register Their Existing Structures Over an Extended Period of Time.**

Given the logistical difficulties inherent in surveying and measuring multiple non-  
collocated antenna structures, multiple-structure owners, like EMI, may face significant and  
potentially insurmountable difficulties in registering their antenna structures by the

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<sup>2/</sup> Id. at Appendix C.

Commission's proposed implementation date of January 1, 1996. The survey and measurement process will be a time- and resource-consuming task for owners of numerous registrable antenna structures. In many cases, an owner's antenna structures may be scattered across several states. EMI, for example, owns registrable antenna structures in seven states. The period of time between the Commission's order resolving the substantive issues in this proceeding and the proposed January 1, 1996 implementation date, most likely will be inadequate to permit multiple-structure owners, like EMI, to satisfy the requirements of the Commission's proposed registration program in a timely manner.

EMI recommends that the Commission key registration deadline dates to the date the order in this proceeding is released, and require multiple-structure owners to satisfy the registration requirements by one of three deadlines, depending on the number of structures owned. For example, the Commission could require that owners of 5 towers or less file their registrations within 90 days of the order's release date. Owners of more than 5 towers but less than 15 towers should be required to file their registrations within 180 days of the order's release. Finally, owners of 15 or more towers should be required to file their registrations within nine months of the release date. A staggered filing timetable would eliminate the need for the Commission to accept and begin processing registration forms for all 70,000 registrable antenna structures at the same time. In addition, a staggered compliance timetable would eliminate the potentially daunting burden a January 1, 1996 implementation date could impose upon the owners of multiple tower structures who, unlike owners of one or few towers, will be required to dedicate extensive time and resources to satisfying the proposed program's registration requirements. Such a timetable would also be

preferable to the geographical, height-based and renewal-based alternatives posed in the Notice, none of which would be as efficient and simple to administer as a quantity-based compliance schedule.

### **III. The Commission's Rules Should Incorporate the Topographical and Dimensional Measurement Guidelines Contained In the Proposed FCC Form 854 Instructions**

The Commission should incorporate the draft instructions to the proposed antenna structure registration form into its rules. Draft instructions 3 through 9 of the proposed form provide detailed measurement standards and procedures for determining antenna location, tower height, and other data.<sup>3/</sup> To the Commission's credit, the proposed measurement instructions are clear and comprehensive and will enable registrants to provide the Commission accurate and standardized data. The draft FCC Form 854 instructions are a significant improvement over existing measurement application instructions and FCC rules for most services.<sup>4/</sup> In addition, the draft instructions are much more comprehensive and detailed than those given on the FAA Notice of Proposed Construction or Alteration Form (FAA Form 7460-1), which is the form that licensees have used to file their antenna structure data with the FAA for subsequent inclusion in the existing FCC databases.<sup>5/</sup>

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<sup>3/</sup> See Notice at Appendix C(2) ("Instructions for Completion of FCC Form 854).

<sup>4/</sup> See, e.g., 47 C.F.R. § 21.15(c), addressing very cursorily "overall height of structure above ground" for new Part 21 stations, and 47 C.F.R. § 21.116, prescribing requirements for the assessment of topographical data associated with those stations.

<sup>5/</sup> In addition, the current version of FCC Form 854, titled "Request for Antenna Height Clearance and Obstruction Marking and Lighting Specifications," which the Notice acknowledges is only required to be filed with the FCC by "certain" licensees (see Notice at ¶ 4, n.9, see also 47 C.F.R. §17.4(h)), does not provide measurement instructions as detailed as those provided by the proposed FCC Form 854.

Moreover, the FAA rules governing notice of construction or alteration fail to provide measurement and survey guidelines similar to those included in the proposed form's instructions.<sup>6/</sup>

Incorporating the draft antenna structure measurement guidelines into the Commission's rules would eliminate the confusion caused by the lack of uniform measurement standards and incorrect data in the Commission's existing tower databases, which has occurred due to the prior use of non-uniform antenna structure measurement standards by radio licensees. An overarching FCC rule prescribing service-blind tower structure measurement standards will ensure that the Commission's proposed registration program leads to the compilation of accurate existing and future antenna structure information. Indeed, codifying the clear and comprehensive draft instructions proposed by the Commission into its rules will serve the public interest and facilitate the submission of accurate data by ensuring that antenna structure registrants are required to adhere to an uniform, service-blind set of measurement standards.

#### **IV. The Commission Should Clarify That It Will Not Penalize Antenna Structure Owners For Filing Corrected Topographical or Dimensional Data.**

Given that the draft instructions to the proposed FCC Form 854, if adopted, would constitute the first set of uniform measurement guidelines for antenna structures, it is likely

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<sup>6/</sup> See 14 C.F.R. §§ 77.11, 77.13, 77.15, 77.17.

that many registrants will have the need to file corrected data.<sup>77</sup> In its Notice, the Commission implies that it anticipates the filing of such corrected data, acknowledging that "some [FCC tower] databases may contain inconsistent information about a single antenna structure because licensees on the structure may have submitted different site coordinates or structure parameters."<sup>8/</sup> The Commission reasons that the implementation of the proposed common database would "facilitate detection and correction of such conflicts by the Commission and licensees."<sup>9/</sup> The Notice, however, does not address explicitly whether tower owners are absolved from penalties for filing corrected topographical or dimensional data as part of their initial antenna structure registrations.

It is clear that the objective of the proposed registration program is not to penalize owners for having unintentionally filed incorrect data with their initial tower notifications, but instead to assemble in a central database the most accurate data possible. Penalizing owners for the submission of corrected data would be particularly unfair, given that the draft instructions to the proposed FCC Form 854 constitute the first comprehensive and service-blind articulation by the FCC (or by the FAA) of standardized antenna structure measurement and survey guidelines.

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<sup>77</sup> By adopting the proposed uniform measurement guidelines, the Commission will implicitly require structure owners who are also licensees on their own towers to resurvey and remeasure their structures pursuant to the new uniform guidelines. To avoid any ambiguity on the part of these existing licensee owners, the Commission should clarify that licensee owners must remeasure and resurvey their structures if they have any grounds to believe that the information on file currently with the FCC for their subject structures is incorrect under the proposed uniform measurement standards.

<sup>8/</sup> Notice at para. 6.

<sup>9/</sup> Id.

Antenna structure owners who discover that the data submitted upon FAA notification was wrong in the course of verifying that data for registration purposes may be disincented from submitting the corrected data to the FCC if the Commission's amnesty in accepting such corrected data is not assured. EMI recommends that the Commission explicitly grant immunity from penalty to those antenna structure owners who submit corrections to data that, although filed in good faith at the time of notification, was incorrect. Of course, such amnesty should not be available to structure owners who are shown to have intentionally submitted false data with their FAA notifications, or in instances where the corrected data varies so significantly from the data on file that FAA lighting requirements would have been more stringent had the correct data been filed with the initial application.

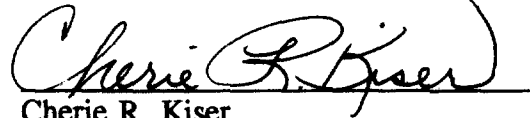
The Commission's proposed antenna structure registration form, FCC Form 854, suggests that the FCC anticipated that antenna structure owners would have occasion to file corrected data. Proposed FCC Form 854 contains a "purpose of application" box which allows for the "modification of registered antenna structure" pursuant to a "correction of coordinates" or an "increase/decrease [in] overall height." As the proposed form is currently configured, however, this provision would apply to only coordinate corrections or height changes to structures that already would have been registered under the proposed program. While the language contained in the proposed form implies that the FCC may be willing to receive corrected data without penalty to the owner registrant, it does not accommodate the filing of corrected data upon initial registration. The Commission, therefore, should consider revising the proposed FCC Form 854 to allow for the simultaneous registration of existing antenna structures and the correction of existing data in the Commission's databases.

**V. Conclusion**

For the aforementioned reasons, EMI Communications Corporation urges the Commission to adopt its proposed streamlined antenna structure clearance and registration program, modified to the extent recommended and explained above.

Respectfully submitted,

EMI COMMUNICATIONS CORP.

A handwritten signature in cursive script, reading "Cherie R. Kiser", written over a horizontal line.

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